

The Honorable Joe Shirley, Jr.  
President  
Navajo Nation  
P.O. Box 9000  
Window Rock, Arizona 86515

Subject: Approval of the Navajo Nation's 1999 Water Quality Standards

Dear President Shirley:

On January 23, 2006, the Environmental Protection Agency approved the Navajo Nation application for Treatment in the Same Manner as a State (TAS) to administer the water quality standards and certification programs under Section 303 and 401 of the Clean Water Act (CWA). Today, I am pleased to approve the Navajo Nation's water quality standards submitted to EPA in November 1999 as part of the Navajo Nation's CWA eligibility application. These standards were adopted by the Navajo Nation Council on November 12, 1999, and certified by the Navajo Nation Attorney General in a letter dated April 12, 2000.

EPA's action is pursuant to CWA Section 303(c)(3) and 40 CFR 131.5 of EPA's implementing regulations, and pertains to those tribal regulations governing water quality standards for surface waters within the exterior boundaries of the Navajo Nation, specifically, the portions of those regulations addressing beneficial uses, water quality criteria, antidegradation, and implementation of water quality standards for surface waters. On January 15, 2002, EPA notified the Navajo Nation that we had reviewed the 1999 standards and found them to be approvable, pending approval of the Navajo Nation's TAS application. Today, we are issuing a final approval of those standards.

To be consistent with the Navajo Nation's TAS approval, EPA is approving the Navajo Nation WQS to apply specifically to those waters for which the Navajo Nation has received TAS approval. EPA also recognizes that since submitting the water quality standards in 1999, the Navajo Nation has adopted certain revised standards which are more protective of human health and the environment. We are therefore approving the 1999 water quality standards with the understanding that the Navajo Nation will be submitting the revised standards to EPA for review and approval.

We would like to commend the Navajo Nation for its efforts to establish protective water quality standards for its waters. We wish to thank Mr. Patrick Antonio, Mr. Eric Rich and other WQS staff members of the Navajo Nation EPA for their hard work, persistence, and cooperation in accomplishing this goal.

Pursuant to Section 7 of the Endangered Species Act, we initiated a formal consultation with the U.S. Fish and Wildlife Service (Service) on August 28, 2000, regarding our anticipated action

on the 1999 standards. On December 26, 2001, the Service transmitted its biological opinion with the determination that an EPA action to approve the standards "is unlikely to jeopardize" the threatened or endangered species identified in the Navajo Nation. Copies of the EPA's biological evaluation and the Service's biological opinion were previously provided to the Navajo Nation office. On July 14, 2005, the Service confirmed that no new species have been listed nor critical habitat designated that would alter the conclusions of its 2001 biological opinion.

The water quality standards regulation at 40 CFR 131.20 requires the Navajo Nation to hold public hearings at least once every three years for the purpose of reviewing its water quality standards and, as appropriate, modifying them or adopting new standards.

We look forward to working jointly with the Tribe on future triennial reviews of the standards. If you have any questions, please have your staff contact Doug Eberhardt of the Clean Water Act Standards and Permits Office at (415) 972-3420, or Linh Tran at (415) 972-3511. For questions related to EPA review of revisions to the 1999 standards, please contact PhilWoods at (415) 972-3405.

Sincerely,

Alexis Strauss, Director  
Water Division

cc: Stephen B. Etsitty, Executive Director, Navajo EPA  
David L. Harlow, U.S. Fish and Wildlife Service, Arizona  
Navajo Fish and Wildlife Department, Window Rock, AZ